

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- x ECF CASE

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: 6/10/20
DATE FILED: 6/10/20

JAMES MURPHY, AND ON BEHALF OF ALL	:	
OTHER PERSONS SIMILARLY SITUATED,	:	AFFIRMATION
Plaintiffs,	:	
v.	:	No.: 1:19-cv-7747
	:	
YONKERS BREWING COMPANY LLC,	:	
Defendant.	:	

----- x

MARK E. CONSTANTINE, ESQ. an attorney duly admitted to practice affirms the following facts under the penalty of perjury:

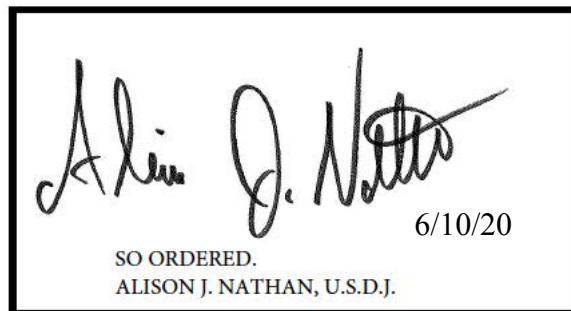
1. The undersigned is the attorney of record for the defendant Yonkers Brewery, LLC in the above captioned matter.
2. This affirmation is made in support of the letter-motion for a Stay/adjournment of the mediation that was to take place this Friday June 12, 2020 and is made on the basis of my firsthand knowledge, the file in my office and the annexed affidavit of the YBC.
3. Please allow this to serve as Yonkers Brewing Company's letter-motion to adjourn the mediation currently scheduled for Friday June 12, 2020 due to the severe financial and safety hardship caused by the combination of the NY PAUSE Executive Orders that have shut down the business and the recent spate of protests that have taken place in Yonkers near the Brewing Company's location.
4. As is laid out in Mr. Rubbo's duly sworn affidavit, the Defendant is overwhelmed with trying to salvage and run a family business that has been decimated by the COVID-19 Pandemic and the ever-present threat of new violent protests in the neighborhood.
5. Under these unprecedeted circumstances the Defendant is unable to fully and appropriately participate in the mediation process or this litigation such that it is unduly prejudicial to compel him to do so at this time.
6. The undersigned has been unable to speak with the defendant for any length of time without the defendant inevitably being pulled away by the needs of his suffering business or being preoccupied with the ever present threat of violent protests in the local community.
7. It is clear that the defendant is currently unable to actively participate and consider his options in contending with the instant litigation and mediation.
8. Accordingly, in light of the foregoing circumstances, the undersigned respectfully requests that the Court adjourns the mediation and extends all other deadlines in the Scheduling Order for a

minimum of 60 days from June 12, 2020 to on or about August 12, 2020 so that the defendant can participate in his own defense in a meaningful manner. SO ORDERED.

9. There will be no significant material prejudice to the plaintiff as his claims will be preserved and unaltered during this reasonable and necessary adjournment.
10. The original date for the mediation was June 12, 2020 and this is undeniably only YBC's first request for an adjournment.
11. Unfortunately, plaintiff's counsel understandably will not consent to the adjournment as they are awaiting YBC's responses to discovery demands. However, as explained at length in Mr. Rubbo's affidavit, the current crisis has completely prevented him from actively participating in this litigation as is his right to defend his company. Furthermore, there will be no permanent significant prejudice to the plaintiff's claims as a result of granting this one brief extension.
12. In accordance with the part rules this request for stay/adjournment or extension of time is respectfully made at least 48 hours prior to the mediation currently scheduled for June 12, 2020.
13. In light of the foregoing and in the interest of justice and fairness I pray that the Court will understand YBC's extraordinary circumstances during this unprecedented time and grant a reasonable 60 day Stay and or Adjournment of the Mediation process and Scheduling Order until a time when YBC, a small family business, is not totally consumed with all of these serious threats to their health, safety and livelihood.

Dated: Yonkers, New York

June 9, 2020



A handwritten signature of Mark E. Constantine.

Mark E. Constantine, Esq.
Attorney for Yonkers Brewing Company, Defendant